**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**DIVISION BENCH**

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**CORAM : HON'BLE SHRI H.L. DATTU, CJ.**
**HON'BLE SHRI D.R. DESHMUKH, J.**

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**Misc. Appeal (C) No.528 of 2007**

**APPELLANTS**
**Applicants**

1. Ajmer Khan S/o Hasim Khan aged about 35 years, R/o Upar Para Abhanpur, Thana Abhanpur, Distt. Raipur (C.G.)
2. Smt. Rasidan Bee W/o Ajmer Khan aged about 30 years, R/o Upar Para Abhanpur, Thana Abhanpur, Distt. Raipur (C.G.)

Versus

**RESPONDENTS**
**Non-Applicants**

1. Lokesh Kumar S/o Shri Kartik Ram Kosale aged about 32 years, R/o Bagdehi Para, Gobra Naya Para, Rajim, Distt. Raipur (C.G.)
2. Manmohan Agrawal S/o Phoolchand Agrawal aged about 40 years, R/o Sadar Bazar, Navapara Main Road, Rajim Dist. Raipur (C.G.)
3. The Oriental Insurance Company Ltd., Through Branch Manager, Branch No.2, Chawla Complex, Sai Nagar, Devendra Nagar Road, Raipur (C.G.)

Memorandum of Appeal under Section 173 of the Motor Vehicles Act 1988 as amended by Act of 1994

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Present : Shri Sachin Singh Rajput, counsel for the appellants.

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**ORAL ORDER**
**(Passed on 2nd May, 2007)**

The following oral order of the Court was passed by Dilip **Raosaheb Deshmukh, J. :**

Heard.

The appellant is aggrieved by the order dated 27.01.2007 passed by the IXth Additional motor Accidents Claims Tribunal, Raipur (CG) (for short "the Tribunal"), in claim case No.50/2006, whereby in a case of accidental death of a young lad, aged 10 years the Tribunal awarded total compensation of Rs.1,56,000/-.

(2) The break-up of the award passed by the Tribunal is as under :

| | | | |
|---|---|---|---|
| a) | Loss of dependency | - | Rs.1,50,000/- |
| b) | Funeral expenses | - | Rs.2,000/- |
| c) | Loss of love and affection | - | Rs.4,000/- |
| | Total | - | Rs.1,56,000/- |

(3) The only ground urged by learned counsel for the appellants is that the compensation awarded by learned Tribunal is wholly inadequate and can not be regarded as just and reasonable compensation in the facts and circumstances of the case. Learned counsel did not dispute that notional income of the deceased was rightly assessed by the MACT at Rs.15,000/- and multiplier 15 was rightly adopted. However, the deceased was a young boy of 10 years and would not have started earning and contributing towards the parents/claimants till he attained majority. Even after that, once the deceased would have started earning, he would have got married, and would have children. In that view of the matter, after attaining majority, loss of dependency of the parents would be restricted to only 1/3rd and not 2/3 as held by the MACT, because the deceased would also be contributing for maintaining his family i.e. his wife and children and would also incur personal expenses.

(4) In that view of the matter, we find that the Tribunal by deducting only 1/3rd towards personal expenses of the deceased has already awarded compensation in excess of what ought to have been awarded to the claimants/appellants. We therefore, find no merit in this appeal, which is dismissed at the admission stage itself.

**Sd/-**
**Chief Justice**

**Sd/-**
**Dilip Raosaheb Deshmukh**
**Judge**